

Chairperson John R. Clark
Vice-Chairperson Michael Parks
Parliamentarian Don Maxwell



Commissioners
Michael Beckendorf
John Bond
Helen Chavarria
Ralph Davila
Robert Horton
G.H. Jones

MINUTES

**BRYAN PLANNING AND ZONING COMMISSION
REGULAR MEETING
THURSDAY, NOVEMBER 20, 2008
AT 6:00 P.M.
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

Disclaimer: *The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.*

1. CALL TO ORDER.

Chairperson Clark called the regular meeting to order at 6:10 p.m.

Commissioners	Present	2008 Regular Meetings Held	2008 Regular Meetings Attended	Regular Meetings Held During Last 6 Months	Regular Meetings Attended During Last 6 Months
Michael Beckendorf	Yes	21	17	11	11
Johnny Bond	Yes	21	21	11	11
Helen Chavarria	Yes	21	18	11	10
John R. Clark	Yes	21	20	11	10
Ralph Davila	Yes	21	19	11	9
Robert Horton	Yes	21	18	11	11
G. H. Jones	Yes	21	19	11	9
Don Maxwell	Yes	21	16	11	9
Michael Parks	Yes	21	17	11	10

Staff members present: Mr. Martin Zimmermann, Planning Administrator; Mr. Randy Haynes, Staff Planner; Mr. Dale Picha, Director of Traffic and Transportation; Mr. Lee Veness, Assistant City Attorney; and Ms. Kelli Hill, Planning Intern.

2. HEAR CITIZENS.

No one came forward.

3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST.

Mr. Veness advised that Chairperson Clark had filed an affidavit in response to state law on disclosure of local official's conflict of interest regarding regular agenda item #6 (Planning Variance PV08-35). Chairperson Clark will not participate in deliberation or voting on the Item.

4. CONSENT AGENDA.

A. Approval of meeting minutes from the workshop and regular meetings on November 6, 2008.

B. Approval of calendar of meeting dates and deadlines (for submitting applications) in 2009.

C. Final Plat FP8-10: Austin's Colony Subdivision – Phases 11A and C **M. Zimmermann**
Proposed Final Plat of Austin's Colony Subdivision – Phases 11A and C, being 17.61 acres of land out of John Austin League, A-2 located north of a proposed northeastern extension of Harvey Mitchell School Drive, northeast from its intersection with Colony Village Drive in Bryan, Texas

Commissioner Maxwell moved to approve the Consent Agenda. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

5. Rezoning RZ08-21: IPS Group (for Scott Ball) **R. Haynes**
A request to change the zoning classification from Retail District (C-2) to Planned Development District – Housing District (PD-H) on 0.78 acres of vacant land located at the east corner of Wellborn and Old College Roads, being Lot 2 and 0.12 acres out of Lot 1 in Block 1 of Village on the Creek Condominium Subdivision in Bryan, Brazos County, Texas .

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- The area surrounding the subject tract is presently zoned for multifamily use, and the location of the site near campus and along transit routes makes it appropriate for higher density residential use,
- Staff believes that use and development proposed at this location will generally be compatible with existing and anticipated uses surrounding this property, and
- The proposed use and development of this property will neither adversely affect health, safety, morals, or general welfare nor be materially injurious to properties or improvements in the vicinity.

Responding to a question from Chairperson Clark, Mr. Haynes stated that the development plan obligates the project to conform to all standard development codes except for specific ones where deviations are proposed. He said in this case the only deviation from the standard codes is some end islands that will be smaller than normal to provide adequate parking spaces.

Responding to a question from Commissioner Parks, Mr. Haynes stated that the distance of the development from the existing above-ground storage tanks shown in the aerial photograph is adequate and meets all buffering requirements.

Responding to a question from Commissioner Maxwell, Mr. Haynes stated that all landscape and site design requirements will be applied to this new development, which includes sidewalks. He also pointed out the existing sidewalk along Wellborn Road.

The public hearing was opened.

Ms. Veronica Morgan, 511 University Dr., representing the applicant, came forward to speak in favor of the request. She presented the site plan in a PowerPoint presentation. She also presented a depiction of the proposed building, which is elevated with parking on the first floor. She stated that she has consulted with the City and with the Department of Transportation about access to the property, and as a result has planned a right-inn right-out access on Wellborn Road. She stated that the final site plan is not yet finished, but that all the requirements and requests of City staff will be accommodated.

Responding to questions from Commissioner Maxwell, Ms. Morgan stated that due to the existing F&B Road intersection across Wellborn Road, a left turn onto the property is not allowed from Wellborn Road. She also stated that the area in the upper left-hand corner of the property on the site plan will be an area of landscaping.

Responding to questions from Chairperson Clark, Ms. Morgan stated that the entrance to the property will not line up with F&B Road.

Responding to a question from Commissioner Beckendorf, Ms. Morgan stated that there will be 52 bedrooms on the property with 52 parking spaces proposed.

Mr. Russell came forward to remind the Commission that the site plan for this proposed property has not been submitted, and that the issue at hand is the use of the property.

Responding to a question from Commissioner Parks, Ms. Morgan stated that the property is 0.78 acres.

Responding to a question from Commissioner Bond, Ms. Morgan stated that there will be 32 units on the property.

Mr. Scott Ball, 4711 Johnsons Creek Loop, College Station, applicant, came forward to speak in favor of the request.

Responding to a question from Commissioner Parks, Mr. Ball stated that the proposed development will be predominantly student housing.

Responding to a question from Commissioner Beckendorf, Mr. Ball clarified that there will be 32 units with eight units on each floor, five being two-bedroom units and three being one-bedroom units.

The public hearing was closed.

Commissioner Maxwell moved to recommend approval of Rezoning RZ08-21 to the Bryan City Council and to adopt the written staff report and analysis as the report findings and evaluation of this Commission. Commissioner Chavarria seconded the motion.

Commissioner Maxwell stated that most of the comments of the Commission during the public hearing were irrelevant. Chairperson Clark agreed.

The motion passed with a unanimous vote.

Chairperson Clark left the meeting at 6:32 and did not return, a quorum still being present.

6. Planning Variance PV08-35: Buckey Turk

R. Haynes

A request for approval of a variance from the design standards for commercial parking areas, to allow the backing of vehicles from an existing commercial parking area into Royal Street in conjunction with the redevelopment of property located at 106 Royal Street between South College and Cavitt Avenues, being Lot 1 in Block 1 of the Ice House Subdivision in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends denial of the request based on the following findings:

- There are no special circumstances or conditions affecting the land where strict application of the development regulations will deprive the owner reasonable use of the property and strict enforcement of design standards for commercial parking areas will still allow the applicant reasonable use of the property,
- There is adequate room on the site to develop customer parking that is accessible to the front of the building and, in this particular case, strict application of the provisions of the ordinance will not create an undue hardship due to the particular size and location and use of the subject property,
- Head-in parking along Royal Street will be detrimental to health and safety of the general public,
- Staff contends that allowing cars to continue to back into the traffic stream on Royal Street is inherently unsafe, and that existing conditions on properties such as the subject property are the reason stricter driveway design standards were enacted,
- Space for adequate parking is available elsewhere on the site, and granting the variance will prevent the application of the ordinance which has been adopted by the City Council to improve conditions in Bryan that affect public safety, and
- Granting the requested variance will prevent orderly redevelopment in this area and devalue efforts and investment made by adjacent property owners.

Responding to questions from Commissioner Davila, Mr. Haynes stated that there are four parking spaces in the front of the property, and one of these is a handicapped space. He stated that the arrangement of spaces does not have any bearing on this case, and that the applicant is asking to keep the existing head-in parking and allow traffic to back out into the public right-of-way. He stated that staff is asking that the front parking area be either closed or arranged differently so that there is no head-in parking.

Responding to a question from Commissioner Maxwell, Mr. Haynes explained that the use is a legally non-conforming warehouse in the South College-Business District.

Responding to a question from Vice-Chairperson Parks, Mr. Haynes estimated that the traffic count is probably over 300 due to the use of the daycare next door to the subject property. He also stated that the parking in the front of the subject property is not being highly utilized at this point.

The public hearing was opened.

Mr. Fred Paine, of Kling Engineering and Surveying, representing the applicant, came forward to speak in favor of the request. He stated that eliminating the parking in the front discourages front access to the building and would significantly deprive the applicant reasonable use of the property. He also stated that he did not know of any traffic conflicts in the area when the property was used as an ice house.

Mr. Buckey Turk, 11 Raven Drive, applicant, came forward to speak in favor of the request. He presented a report to the Commission giving the history of the property. He stated that the new use of the property as a warehouse has reduced the traffic load on Royal Street. He also stated that he has cleaned up the building and surrounding grounds and plans to continue upgrading the interior. Mr. Turk addressed the staff report, saying that there is not enough room for parallel parking and all other parking on the property is in a restricted area used for loading and employee parking. He stated that he believes eliminating the front parking constitutes depriving reasonable use of the property because it eliminates access to the front of the building by a non-employee. He contended that a large percentage of the traffic on Royal Street takes place before 8:15 a.m. due to the school in the area and that his business does not open until 9:00 a.m. Mr. Turk also stated that a summary viewing of traffic in the area finds parking on the street, often in the opposite direction from traffic flow. He contended that if parking was closed at the front of the property, the area would see more on-street parking. He stated that staff's assumption of the traffic count of 300 is overestimated, as that would assume no one carpools or rides the bus.

Responding to a question from Commissioner Beckendorf, Mr. Turk stated that the access at the side of the building requires visitors to climb stairs and that one must go through two warehouses and a testing area to get to the front service area.

Mr. Turk stated that due to the fact that the Commission cannot consider financial hardship for the applicant, it should not consider the financial investments of other developments in the area. He also stated that the Superior Automotive next door has a significantly different layout from the subject property and that the same solution is not easily applied in this case.

Responding to questions from Commissioner Beckendorf, Mr. Turk stated that traffic in the area occurred around every three to five minutes, depending on the time of day, and that to his knowledge neither him or his employees have felt threatened by backing onto the street from the parking lot. He added that his employees do not use the head-in parking. He stated that the only complaint he has had was when his delivery truck pulled into the Superior Automotive parking lot, which he acknowledged was inappropriate.

Responding to questions from Commissioner Davila, Mr. Turk stated that as of now there are less than five customers per business day on his property, and that he does not encourage this property to be a high traffic area.

Responding to a question from Commissioner Beckendorf, Mr. Turk stated that the gate on the property is often secured, which would encourage parking in the driveway if there were no head-in parking. He stated that this would also lead to people backing out onto South College Avenue at a closer distance than the current head-in parking.

Responding to a question from Commissioner Bond, Mr. Turk stated that the use of the property is primarily a distribution center and that there are no invoicing facilities on the property; the only traffic generated by the warehouse is the occasional customer that is picking up a purchase from another store.

Responding to a question from Commissioner Horton, Mr. Turk stated that there is 18 feet from the sidewalk to the front of the property.

Responding to a question from Commissioner Jones, Mr. Turk stated that Tuesday and Thursday are his busiest days because of deliveries.

Responding to questions from Vice-Chairperson Parks, Mr. Turk stated that there is some space available in the existing landscaped area, but that that would create a security problem for the building because of the sliding glass door opening to the testing facility. He stated that he closes the warehouse at 6:00 p.m. and has two to four employees. He stated that he probably has one customer per day, and does not promote the type of activity that goes on at the site because of the computer equipment.

Responding to a question from Commissioner Beckendorf, Mr. Turk stated that he probably has no more than two customers per day.

Responding to questions from Mr. Veness, Mr. Turk stated that he contends it is more inconvenient for the public to use a different parking area, but that he would still be able to use the building as a warehouse.

Mr. Art King, 300 Greenway Drive, came forward to speak in favor of the request. He stated that he does not think this decision is hard. He stated that it is not impossible for people to park on the side of the building, but that eliminating the front parking is doing serious damage to use of this property.

The public hearing was closed.

Responding to questions from Commissioner Maxwell, Mr. Haynes stated that the variance, if granted, will follow the property whether or not the use changes in the future.

Responding to a question from Commissioner Maxwell, Mr. Veness stated that approval of the variance must be based on all of the conditions. He stated that this is a quasi-safety regulation because of the head-in parking backing out onto the street, and if the applicant can still use the property in an economically-viable manner, then the use and safety regulation is not depriving.

Responding to a question from Commissioner Maxwell, Mr. Haynes stated that this kind of situation places staff in a strange position, because it feels like they are saying they do not want the applicant to use the property. He stated that the items on the list presented by Mr. Turk have staff's support, but the issue at hand is about parking.

Responding to questions from Commissioner Davila, Mr. Haynes stated that a plan for parallel parking has not been reviewed, but that it is a possibility.

Vice-Chairperson Parks noted that another property in the area has head-in parking and asked if motorists backed out onto the street from that property. Mr. Haynes stated that the driveway was wide enough to turn around in and then drive forward onto the street.

Mr. Haynes clarified that an old survey was initially used for this property, which showed 14 feet on the front corner, so staff advised the applicant to pursue a variance for head-in parking and a special use license to use public property. When the new survey was used later, which showed 18 feet, the applicant did not need a special use license.

The public hearing was closed.

Commissioner Maxwell moved to deny Planning Variance PV08-35 because strict compliance will not result in undue hardship and non-strict compliance will be detrimental to the health and safety of the general public, and in so doing adapt the written staff report and analysis as the findings of this Commission, as well as facts upon which these findings are based, with the understanding that such findings and facts will be entered into the official minutes of the Planning and Zoning Commission meeting. Commissioner Davila seconded the motion.

Commissioner Bond stated that he feels like denial of the variance is creating a hardship for the owner. He stated that there is a problem if there is not easy access to the front door, and that his use of the business does not involve much traffic. He also stated that restricting the space in front of the building creates a hardship for a handicapped person or for someone loading or unloading products. He stated that there are many properties that have driveways that require backing out onto the street, and he does not see why this situation is different.

Commissioner Maxwell stated that he is uncomfortable with the phrase “because strict compliance will not result in undue hardship”, and that he agrees with Commissioner Bond’s first point-of-view but disagrees with second.

Commissioner Beckendorf stated that he agrees with Commissioner Bond, and that to compel the applicant to cut down the palm trees, move the fence, and lay concrete requires many thousands of dollars for an area that does not have that much traffic.

Commissioner Davila stated that the Commissioner is trying to adhere to the ordinance and there are other options.

Commissioner Beckendorf stated that if the variance is denied, the applicant can appeal to the City Council.

Commissioner Maxwell stated that this does not prevent parallel parking on the street, and that there are other options available.

Vice-Chairperson Parks stated that the main question is how busy the road is. He stated that the images of the parallel parking on the street are concerning, and that the building was created this way and people have successfully negotiated the head-in parking. He stated that he is conflicted about the decision. He reiterated that there are options available.

Commissioner Horton stated that he understands the applicant's concern about the inventory and that moving the fence back will create an area where people can access the building.

The motion to deny failed with a vote of four (4) in favor and four (4) in opposition. Commissioners Beckendorf, Bond, Chavarria, and Horton cast the votes in opposition.

Commissioner Maxwell moved to reconsider the motion to be sure that City Council has jurisdiction to hear the case. Commissioner Jones seconded the motion.

Vice-Chairperson Parks asked if there was any discussion. There was none.

The motion passed with a vote of five (5) in favor and three (3) in opposition. Commissioners Bond, Chavarria, and Horton cast the votes in opposition.

7. ADJOURN

Without objection, Vice-Chairperson Parks adjourned the meeting at 7:56 p.m.

These minutes were reviewed and approved by the City of Bryan Planning & Zoning Commission on the 4th day of **December, 2008**.

John R. Clark, Chairperson
Planning and Zoning Commission
City of Bryan, Texas

Martin Zimmermann, Planning Administrator
and Secretary to the Planning and Zoning
Commission